

DAVID B. BARLOW, United States Attorney (#13117)  
MARK K. VINCENT, Assistant United States Attorney (#5357)  
TYLER L. MURRAY, Assistant United States Attorney (#10308)  
Attorneys for the United States of America  
185 South State Street, Suite 300  
Salt Lake City, Utah 84111  
Telephone: (801) 524-5682

FILED  
U.S. DISTRICT COURT

2013 NOV 20 4:59

DISTRICT OF UTAH

BY: DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BENJAMIN SMITH  
a/k/a T.J. Smith & Vernon Smith,

Defendant.

INDICTMENT

VIOLATIONS: 21 U.S.C. § 841(a)(1), Possession with Intent to Distribute a Controlled Substance [Count I]; 18 U.S.C § 924(c)(1)(A)(i), Use and Carry a Firearm During and In Relation to a Drug Trafficking Offense [Count II]; 21 U.S.C. § 844(a), Possession of a Controlled Substance [Count III]; 18 U.S.C. § 922(g)(1), Felon in Possession of a Firearm and Ammunition [Count IV]; and 18 U.S.C. § 922(g)(3), Illegal Drug User and Addict in Possession of a Firearm and Ammunition [Count V].

Case: 2:13-cr-00776  
Assigned To : Benson, Dee  
Assign. Date : 11/20/2013  
Description: USA v.

The Grand Jury Charges:

COUNT I

(21 U.S.C. § 841(a)(1))

On or about August 1, 2013, in the Central Division of the District of Utah,

BENJAMIN SMITH  
a/k/a T.J. Smith & Vernon Smith,

the defendant herein, did knowingly and intentionally possess with intent to distribute 5 grams or more of methamphetamine, a Schedule II controlled substance within the meaning of 21 U.S.C. § 812; all in violation of 21 U.S.C. § 841(a)(1) [and punishable by 21 U.S.C. § 841(b)(1)(B)].

COUNT II  
(18 U.S.C § 924(c)(1)(A)(i))

On or about August 1, 2013, in the Central Division of the District of Utah,

BENJAMIN SMITH  
a/k/a T.J. Smith & Vernon Smith,

the defendant herein, did knowingly carry and use a firearm, that is a EEA .40 caliber semi-automatic pistol, during and in relation to a drug trafficking crime, to wit: possession of methamphetamine with intent to distribute, a violation of 21 U.S.C. § 841(a)(1), as alleged in Count I of this Indictment, which Count is incorporated by reference herein; all in violation of 18 U.S.C. § 924(c)(1)(A)(i) [and punishable by 18 U.S.C. § 924(c)(1)(C)(i)].

COUNT III  
(21 U.S.C. § 844(a))

On or about August 1, 2013, in the Central Division of the District of Utah,

BENJAMIN SMITH  
a/k/a T.J. Smith & Vernon Smith,

the defendant herein, did knowingly and intentionally possess a mixture and substance containing marijuana, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812; all in violation of 21 U.S.C. § 844.

COUNT IV  
(18 U.S.C § 922(g)(1))

On or about August 1, 2013, in the Central Division of the District of Utah,

BENJAMIN SMITH  
a/k/a T.J. Smith & Vernon Smith,

the defendant herein, having been convicted of a crime punishable by more than one year in prison, did knowingly possess in and affecting interstate and foreign commerce one or more firearms and ammunition, to wit: an EEA .40 caliber semi-automatic pistol and associated ammunition; all in violation of 18 U.S.C. § 922(g)(1) [and punishable by 18 U.S.C. § 924(a)(2)].

COUNT V  
(18 U.S.C § 922(g)(3))

On or about August 1, 2013, in the Central Division of the District of Utah,

BENJAMIN SMITH  
a/k/a T.J. Smith & Vernon Smith,

the defendant herein, then being an unlawful user and addict of a controlled substance as defined in 21 U.S.C. § 802, did knowingly possess in and affecting interstate and foreign commerce firearms and ammunition, to wit: an EEA .40 caliber semi-automatic pistol and associated ammunition; all in violation of 18 U.S.C. § 922(g)(3) [and punishable by 18 U.S.C. § 924(a)(2)].

**NOTICE OF INTENT TO SEEK FORFEITURE**

As a result of committing the felony offenses alleged in Counts I through V of this Indictment, each of which is punishable by imprisonment for more than one year, the defendant shall forfeit to the United States, pursuant to 21 U.S.C. § 853 for Counts I and III and 18 U.S.C. § 924(d) for Counts II, IV, and V, any and all property constituting or derived from any proceeds the said defendant obtained directly or indirectly as a result of the said felony offenses and any and all property, real and personal, used or intended to be used in any manner or part to commit and to facilitate the commission of the violations of 21 U.S.C. §§ 841(a)(1) & 844 and 18 U.S.C. §§ 924(c), 922(g)(1), & 922(g)(3) any property traceable thereto; including but not limited to:

- The EEA .40 caliber semi-automatic pistol and associated ammunition.

A TRUE BILL:

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FOREPERSON OF THE GRAND JURY

DAVID B. BARLOW  
United States Attorney

  
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MARK K. VINCENT  
Assistant United States Attorney